

Remarks

The above referenced application is a broadening divisional reissue application based on broadening reissue application 10/659,794, which is a broadening reissue application of U.S. Patent No. 6,286,615. Pursuant to reissue practice, Dario Sansone and Ubaldo Puglia previously executed reissue declarations in this application in accordance with 37 C.F.R. § 1.175 and M.P.E.P. § 1410:01. A new reissue declaration in accordance with 37 C.F.R. §§ 1.175(a) and 1.175(b)(1) is now being required to overcome rejections made during prosecution of this reissue application under 35 U.S.C. § 251. Ubaldo Puglia has died during the pendency of this reissue application.

M.P.E.P. § 409 outlines the requirements and procedures for the death, legal incapacity, or unavailability of an inventor in patent applications. According to M.P.E.P. § 409.01(a), an application may be made by the heirs of a deceased inventor. Accordingly, reasonable effort and diligence was made to obtain the signature of Ubaldo Puglia's widow for the reissue declaration, in accordance with M.P.E.P. § 409.01(a). After reasonable diligence, Mr. Puglia's widow refuses to sign the new reissue declaration.

If a joint inventor refuses to sign a supplemental declaration in a reissue application, such a declaration listing all of the inventors and signed by all available inventors may be filed provided it is accompanied by a petition filed under 37 C.F.R. § 1.183, along with the petition fee, and requesting waiver of the signature requirement of the non-signing inventor. M.P.E.P. § 1414.01(III).

A statement of pertinent facts is set forth below.

Statement of Pertinent Facts

The above-identified broadening reissue application is a divisional reissue application of broadening reissue application 10/659,794, which is a broadening reissue application of U.S. Patent No. 6,286,615, and was filed in the United States Patent & Trademark Office ("USPTO") on August 31, 2009. An executed Revised Reissue Declaration under 37 C.F.R. § 1.175 and a Supplemental Reissue Declaration, both from Dario Sansone and Ubaldo Puglia, were filed on August 31, 2009.

On January 19, 2011, the USPTO issued an Office Action that, in part, requires a new reissue declaration to be submitted. Since the filing of the last declaration, Ubaldo Puglia has died.

Dario Sansone has presented Mrs. Milvia with a copy of the dual-language (English and Italian) reissue declaration submitted herewith, as well as copies of U.S. Patent No. 6,286,615, the reissue application papers, and the changes made to U.S. Patent 6,286,615 during prosecution of this reissue application. In addition, Mr. Sansone has explained the materials and requirement and procedure for the declaration to Mrs. Milvia. As evidenced in the attached communication from Mrs. Milvia, including translation (Exhibit A), she refuses to sign the reissue declaration, without additional compensation, which is not required according to the assignment of Ubaldo Puglia's interest in U.S. Patent No. 6,286,615 and any reissue applications based thereon (Exhibit B). Mrs. Milvia's last known residence is Via Fratelli, Cervi, 2, 40055 Castenaso, Bologna, Italy.

Conclusion

Accordingly, this petition under 37 C.F.R. 1.183 and pursuant to M.P.E.P. § 1414.01(III), is being filed with the USPTO in response to the Office Action dated January 19, 2011 along with a new reissue declaration, containing the signature the remaining co-inventor, Dario Sansone, without the signature of deceased co-inventor Ubaldo Puglia and without the signature of Mr. Puglia's heir and widow Ferrante Miviato.

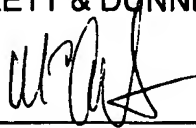
Therefore, it is requested that the Commissioner approve this Petition and the accompanying Declaration and allow prosecution on the merits to continue in the above-identified reissue application.

If there are any other fees required for filing this paper, including any additional fees for extensions of time, please charge these fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 18, 2011

By: 

Timothy P. McAnulty
Reg. No. 56,939